

Internal Revenue Code Section 414(m)

Definitions and special rules

(m) Employees of an affiliated service group.

- (1) In general. For purposes of the employee benefit requirements listed in paragraph (4), except to the extent otherwise provided in regulations, all employees of the members of an affiliated service group shall be treated as employed by a single employer.
- (2) Affiliated service group. For purposes of this subsection, the term "affiliated service group" means a group consisting of a service organization (hereinafter in this paragraph referred to as the "first organization") and one or more of the following:
 - (A) any service organization which—
 - (i) is a shareholder or partner in the first organization, and
 - (ii) regularly performs services for the first organization or is regularly associated with the first organization in performing services for third persons, and
 - (B) any other organization if—
 - (i) a significant portion of the business of such organization is the performance of services (for the first organization, for organizations described in subparagraph (A), or for both) of a type historically performed in such service field by employees, and
 - (ii) 10 percent or more of the interests in such organization is held by persons who are highly compensated employees (within the meaning of section 414(q)) of the first organization or an organization described in subparagraph (A).
- (3) Service organizations. For purposes of this subsection, the term "service organization" means an organization the principal business of which is the performance of services.
- (4) Employee benefit requirements. For purposes of this subsection, the employee benefit requirements listed in this paragraph are—

(A) paragraphs (3), (4), (7), (16), (17), and (26) of section 401(a), and

(B) sections 408(k), 408(p), 410, 411, 415, and 416.

(5) Certain organizations performing management functions. For purposes of this subsection, the term "affiliated service group" also includes a group consisting of—

(A) an organization the principal business of which is performing, on a regular and continuing basis, management functions for 1 organization (or for 1 organization and other organizations related to such 1 organization), and

(B) the organization (and related organizations) for which such functions are so performed by the organization described in subparagraph (A). For purposes of this paragraph, the term "related organizations" has the same meaning as the term "related persons" when used in section 144(a)(3).

(6) Other definitions. For purposes of this subsection—

(A) Organization defined. The term "organization" means a corporation, partnership, or other organization.

(B) Ownership. In determining ownership, the principles of section 318(a) shall apply.